HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

W.A. No.576 OF 2007

Between:

Singu Sailaja and others

. . .Appellants

AND

The Government of Andhra Pradesh and others

. . .Respondents

:: JUDGMENT ::

Counsel for the appellants : Shri N.V.Anantha Krishna

17th July, 2007

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PER G.S.SINGHVI, CJ

Whether the appellants, who are non-tribals and who were appointed as Agents under Mahila Pradhan Kshetriya Bachat Yojana (MPKBY) and Standardised Agency System (SAS) for collecting money for Post Office Cumulative Time Deposit or Recurring Deposit Accounts from the people living in Agency Areas, are entitled to renewal of their Agency as of right and whether the policy decision taken by the State Government to reserve Small Savings Agencies in the Agency Areas for Scheduled Tribes is violative of Article 14 of the Constitution are the questions which arise for determination in these appeals filed against order dated 9.4.2007 passed by the learned Single Judge in Writ Petition No.7117 of 2007.

Some of the appellants were appointed as Agents in the year 1970, while others were appointed in subsequent years. The term of their appointment was extended from time to time. The tenure of last extension ended on different dates ranging from August 2006 to February 2007. The particulars of the Agency Certificates of the appellants, the tenure of their appointment as Agents and the dates of applications made by them for extension are detailed below:

Name	Certificate No.	Date of Certificate	Valid till	Further extension applied on
Singu Sailaja	0450715 MPKBY	27.2.2004	26.2.2007	14.2.2007
Vanga Nagamani	808/078454 MPKBY	4.4.1983	14.3.2007	7.2.2007
Pullakhandam Praveena	AA0240731 S.A.S.	30.12.2002	29.12.2006	20.12.2006
A. Subhadra	264216/95 MPKBY	14.9.1995	13.9.2006	13.2.2007
Guntipalli Padmaja	AA0232620 S.A.S.	5.12.2005	4.12.2006	13.2.2007
G. Srilatha	AA0226489 S.A.S.	5.9.2005	4.9.2006	5.8.2006

In January 2006, District Collector, Khammam (respondent No.3 herein) vide his letter Rc.No.NSS/4148/2005, dated 31.1.2006

instructed the Mandal Revenue Officers and the Mandal Development Officers of Agency Mandals not to appoint Agents under Small Savings Schemes except the Tribals of the Agency Areas. However, on a reference made by respondent No.3, Commissioner, Small Savings, Andhra Pradesh (respondent No.2 herein) vide his Memo dated 2.6.2006 clarified that renewal can be granted to the existing Agents because the provisions contained in the Andhra Pradesh Scheduled Areas Land Transfer (Amendment) Regulation, 1970 do not have any bearing on the business activities in the Agency Areas. This action of respondent No.2 was not approved by the State Government and vide Memo No.5820/LRTR-1/2006-1, dated 22.6.2006 Secretary to Government, Social Welfare (TW) Department directed the concerned authorities to reserve Agencies of Small Savings in Agency Areas for Scheduled Tribes.

The appellants questioned the decision of the respondents not to extend their term of appointment, but could not persuade the learned Single Judge to entertain their prayer for issue of a mandamus to the respondents to grant extension. Writ Petition No.7117 of 2007 filed by them was dismissed by the learned Single Judge with the observation that the policy decision taken by the State Government to appoint only Tribals as Agents in the Small Savings Schemes cannot be faulted and the writ petitioners (the appellants herein) do not have the right to seek renewal of their Agencies or extension of their tenure.

We have heard Shri N.V. Anantha Krishna and gone through the records. Admittedly, the term of the appellants' appointment as Agents has come to an end. The appellants have neither pleaded nor the learned counsel could show that his clients are entitled to extension of the term of their Agencies as of right. Therefore, the mere fact that they have worked as Agents for many years for collecting money from the Tribals does not entitle them to seek a mandamus for extension of their term.

The policy decision taken by the government in Social Welfare Department to appoint Agents in Agency Areas only from amongst Scheduled Tribes is in consonance with the spirit of the provisions contained in the Fifth Schedule of the Constitution and the concept of positive equality enshrined in Articles 14 and 15 of the Constitution. It is meant to encourage the Scheduled Tribes to participate in the development of Agency Areas and people living therein. The policy does not violate any of the constitutional or legal rights of the appellants. It is also not shown to be vitiated due to mala fides or arbitrariness. Therefore, the mere fact that the appellants have worked as Agents for number of years cannot justify issue of a judicial fiat for annulment of the policy. In this connection, we may usefully refer to the recent judicial pronouncements. In **Ugar Sugar Works Ltd. v. Delhi Admn.**[1], the Supreme Court examined the scope of judicial review of policy decisions and held:

> "Courts, in exercise of their power of judicial review, do not ordinarily interfere with the policy decisions of the executive unless the policy can be faulted on grounds of mala fide, unreasonableness, arbitrariness or unfairness etc. Indeed, arbitrariness, irrationality, perversity and mala fide will render the policy unconstitutional. However, if the policy cannot be faulted on any of these grounds, the mere fact that it would hurt business interests of a party, does not justify invalidating the policy. In tax and economic regulation cases, there are good reasons for judicial restraint, if not judicial deference, to judgment of the executive. The courts are not expected to express their opinion as to whether at a particular point of time or in a particular situation any such policy should have been adopted or not. It is best left to the discretion of the State."

In **Ekta Shakti Foundation v. Govt. of NCT of Delhi**[2], the Supreme Court held as under:

> "The policy decision must be left to the Government as it alone can decide which policy should be adopted after considering all the points from different angles. In the matter of policy decisions or exercise of discretion by the Government so long as the infringement of fundamental rights is not shown, the courts will have no occasion to interfere and the court will not and should not

substitute its own judgment for the judgment of the executive in such matters. In assessing the propriety of a decision of the Government the court cannot interfere even if a second view is possible from that of the Government."

In **All India ITDC Workers' Union v. ITDC**[3], the Supreme Court negatived the challenge to the disinvestment policy of the government and held:

> "The Government of India constituted the Disinvestment Commission and accepted the recommendation of the said Commission. A decision was taken by Inter-Ministerial Group and at the level of the Cabinet Committee on Disinvestment to divest each property belonging to ITDC individually rather than altogether or in groups. The decision of the Government of India to divest the property was a policy decision which was not in any manner contrary to the law of the land. The present writ petitions filed by the employees merit to be dismissed since disinvestment was a policy decision of the Government of India. The said policy decision should be least interfered with in judicial review."

In the result, the appeal is dismissed.

As a sequel to dismissal of the appeal, WAMP No.1128 of 2007 filed by the appellants for interim relief is also dismissed.

G.S.SINGHVI, CJ

17th July, 2007

C.V.NAGARJUNA REDDY, J

svs

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[1] (2001) 3 SCC 635

[2] (2006) 10 SCC 337

[3] (2006) 10 SCC 66